

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

**DEUTSCHE BANK NATIONAL TRUST §
COMPANY, AS INDENTURE §
TRUSTEE OF THE AAMES §
MORTGAGE INVESTMENT TRUST §
2004-1, §**

Plaintiff,

v.

**LELIA JONES-WHEATFALL AND §
MICHAEL WAYNE WHEATFALL, §**

Defendant. §

Civil Action No. 4:19-cv-4613

PLAINTIFF’S MOTION FOR ATTORNEYS’ FEES

Deutsche Bank National Trust Company, as Indenture Trustee of the Aames Mortgage Investment Trust 2004-1 (“Plaintiff”) files this *Plaintiff’s Motion for Attorneys’ Fees* (“Motion”) and respectfully shows the Court:

1. On November 25, 2019, Plaintiff filed its *Original Complaint* against Lelia Jones-Wheatfall and Michael Wayne Weathfall (together, “Defendants”) seeking an order allowing foreclosure against their interest in certain real property. (ECF No. 1.)

2. On December 17, 2020, Plaintiff filed *Plaintiff’s Motion for Default Judgment* (“Motion”). (ECF No. 23.) The Court entered the Order granting Plaintiff’s Motion on January 14, 2021. (ECF No. 26.) The Order allowed Plaintiff to seek attorneys’ fees by February 5, 2021, through subsequent motion pursuant to Federal Rule of Civil Procedure 54(d)(2)(B)(i).

3. Plaintiff incurred \$9,399.00 in reasonable and necessary attorneys’ fees in filing and prosecuting Plaintiff’s claims to enforce its interest in certain real property as a result of the default under the loan agreement made subject to this suit. See **Exhibit A**, Declaration of Mark D. Cronenwett. A true and correct copy of the detailed billing statements showing the attorneys’

fees by name, date, and amount is attached hereto as **Exhibit A-2**. Accordingly, in this Motion, Plaintiff requests an award of attorneys' fees in the amount of \$9,399.00 that it has incurred in this case.

4. Plaintiff is entitled to attorneys' fees pursuant to Texas Civil Practice and Remedies Code section 38.001 because this suit is to enforce a written contract through foreclosure. *See* TEX. CIV. P. REM. CODE § 38.001(8). Furthermore, the loan contract provides for recovery of reasonable attorneys' fees incurred in pursuit of foreclosure. (*See* ECF Doc. No. 1-1, page 13-14.) Plaintiff seeks attorneys' fees as an additional debt secured by the subject Note and Security Instrument and not as a personal judgment against the Defendants.

PRAYER

For these reasons, Plaintiff requests that the Court award Plaintiff attorneys' fees in the total amount of \$9,399.00, to be recovered not as a personal judgment against Defendants but as a further obligation secured by the property at issue under the Note and Security Instrument made basis of this suit. Plaintiff also prays for all relief, whether at law or in equity, to which it is justly entitled.

Respectfully submitted,

By: /s/ Vivian N. Lopez

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ATTORNEY FOR PLAINTIFF

CERTIFICATE OF SERVICE

I hereby certify that I have caused a copy of the foregoing to be delivered to the following in the manner indicated on this the January 20, 2021.

Via U.S. Mail

LELIA JONES-WHEATFALL
4806 RICHMOND KNOLL LANE
FRESNO, TX 77545

MICHAEL WAYNE WHEATFALL
4806 RICHMOND KNOLL LANE
FRESNO, TX 77545

/s/ Vivian N. Lopez

VIVIAN N. LOPEZ